HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI

AND

HON'BLE SRI JUSTICE G. BHAVANI PRASAD

Writ Petition No.18699 of 1997

Between:

G. Venkata Subbanna … Petitioner

And

The State of A.P. represented by its

Secretary, Education Department,

and others.

… Respondents

:: ORDER::

Counsel for the Petitioner: Sri Singam Venkata Subba Rao

Counsel for Respondents No.1

To 3: Government Pleader for Land Acquisition

Counsel for Respondent No.4: Sri M. Ramalingeswara Reddy

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April 17, 2006

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Per G.S. Singhvi, CJ

In this petition filed in August 1997, the petitioner has prayed for quashing notifications dated 5-4-1994 and 5-5-1994 issued by the State Government under Sections 4 (1) and 6 of the Land Acquisition Act, 1894 (for short 'the Act') whereby about 150 acres of land, including 4 cents of land comprised in Survey Number 11/3 of B. Thandrapadu Village, Kurnool district belonging to the petitioner was acquired for a 'public purpose', namely, construction of Post-Graduate Centre by Sri Krishna Devaraya University, Anantapur (hereinafter described as 'the University').

The petitioner claims to have purchased the land in question from Sri N.D. Pande through registered sale-deed dated 21-6-1993, constructed a house for residential purpose and is also running tea stall. He has questioned the acquisition proceedings on the grounds of non-publication of notifications issued under Sections 4 (1) and 6 in two daily newspapers. Another plea taken by the petitioner is that the award has not been passed within the time prescribed under Section 11-A of the Act and, therefore, the acquisition proceedings will be deemed to have lapsed. In support of his prayer for quashing the acquisition proceedings, the petitioner has relied on the judgments of the Supreme Court in **Balwant Narayan Bhagde v. M.D.**

Bhagwat, **Ram Chand v. Union of India**, **State of U.P. Rajiv Gupta** and **Nahar Singh v. State of U.P.**

The case set up by the respondents is that the land of the petitioner was acquired along with other lands of B. Thandrapadu Village of Kurnool Mandal for construction of Post-Graduate Centre of the University. In the counter-affidavits filed on behalf of respondent Nos.1 to 3 and respondent No.4, it has been averred that notifications issued under Sections 4 (1) and 6 were published in Andhra Gazettee dated 5-4-1994 and 5-5-1994 and also in a Telugu newspaper circulating in the locality i.e., Eenadu Daily dated 31-3-1994 and 13-6-1994. Thereafter, statutory notices were issued under Sections 9 (1) of the Act and award was passed on 20-12-1995. According to the respondents, the petitioner appeared in the award enquiry and claimed compensation at the rate of Rs.12,000/- per acre, but the same was not accepted by the Land Acquisition Officer.

Before proceeding further, we deem it proper to take notice of some events which have happened after filing of the writ petition. These are:

1. By an order dated 29-11-2002, the Division Bench allowed the writ petition in terms of order passed in Writ Appeal No.1129 of 2001.

2. By another order dated 8-12-2003, the Division Bench allowed Review WPMP No.32388 of 2003 filed by the University and restored the writ petition for fresh hearing.

3. The writ petition was dismissed in default on 16-2-2006 because no one appeared on behalf of the petitioner.

4. The order of dismissal in default was set aside on 21-3-2006.

After restoration of the writ petition, arguments were heard on 21-3-2006 and the following order was passed:

"**WPMP No.5679 of 2006**

This is an application for restoration of the writ petition which was dismissed in default on 16-02-2006.

Learned counsel for the non-applicants say that they do not have any

objection.

In view of the statement made by the learned counsel for non-applicants and averments contained in the affidavit of Sri Singam Venkata Subbarao, advocate, we are satisfied that the absence of the learned counsel on 16-02-2006 i.e., on the day on which the writ petition was dismissed in default was not intentional.

Hence, the application is allowed. Order dated
16-02-2006 is recalled and the writ petition is restored to its original number.

Writ Petition No.18699 of 1997

With the consent of the learned counsel for the parties, arguments have been heard on the main case.

The petitioner has challenged notifications dated 05-04-1994 and 05-05-1994 issued under Section 4 (1) and Section 6 of the Land Acquisition Act, 1894 (for short 'the Act') vide which his land was acquired by the State Government for development of postgraduate center of Sri Krishna Devaraya University, Anantapur. He has averred that the respondents had invoked urgency clause contained in Section 17 (4) of the Act by dispensing with the enquiry under Section 5-A without there being any real urgency and that Award No.10 of 1995 was passed without giving him opportunity of hearing.

Learned counsel for the respondents invited our attention to the award passed by the Land Acquisition Officer-cum-Revenue Divisional Officer, Kurnool to show that the petitioner had participated in the enquiry held by the Land Acquisition Officer. Learned Government Pleader read out paragraph XVI of the award to show that the only plea raised by the petitioner was in regard to payment of compensation.

Learned counsel representing the University says that possession of the land in question had been taken over and the same has been utilized for construction of postgraduate centre.

Learned counsel for the petitioner seriously contests the statement of the learned counsel for the University.

In order to resolve the controversy regarding possession of the disputed land, we direct District Judge, Kurnool to depute an officer of the rank of Judicial Magistrate to go to the spot to make inspection and submit report as to whether the land of the petitioner has been utilized for construction of the postgraduate centre or any other building of the University.

We have issued the aforementioned direction because if the land in question has already been utilized, then the issue of delay in filing of the writ petition would assume importance.

A copy of this order be sent to District Judge, Kurnool along with Xerox copy

of the paper book of the writ petition. He should depute an officer of the rank of Judicial Magistrate for the purpose of making spot inspection/enquiry. Report based on the inspection/ enquiry made by the officer concerned shall be sent to this Court within a period of two weeks from receipt of this order.

List the case on 13-04-2006. To be shown in the list of admission cases."

In compliance of the direction given by this Court, District Judge, Kurnool appointed Principal Junior Civil Judge, Kurnool to inspect the site and submit report. Accordingly, Sri V. Krishna Murthy, Principal Junior Civil Judge, Kurnool inspected the site and submitted report dated 6-4-2006, which has been forwarded by District Judge, Kurnool. The relevant extracts of the report are reproduced below:

"On 4-4-2006, I went to the disputed land at 11-00 AM along with my Court Chief Ministerial Officer Sri B. Shankar Babu and Court Process Server Sri Ramudu and one photographer. The incharge Revenue Divisional Officer, Kurnool, Smt.S. Sashi Devi; the Mandal Revenue Officer, Kurnool, Sri K. Mallikarjunudu; Special Officer S.K. University, P.G. Centre, Kurnool, Sri Lakshmi Narasaiah, and the petitioner Sri G. Venkata Subbannna are present at disputed land. After giving notices to all of them, I started the Inspection and on the spot study of the disputed land. I asked the photographer to take photos of the disputed land in which a hut is in existence in different positions.

I observed the following physical features at disputed land:

1) The petitioner Sri G. Venkata Subbanna in the writ petition has been residing in a hut along with his family members in the disputed Ac.0-04 cents of land. (Photograph enclosed). The authorities of S.K.University, P.G. Centre, Kurnool constructed a compound wall around its site and the hut of the petitioner Sri G. Venkata Subbanna is inside the compound wall.

2) The disputed land is not a separate one, but included in the land of S.K. University on the North-western side of the land of P.G. Centre. The land of petitioner has not been utilized for construction of the Post Graduate Centre or any other building of the University.

3) The measurements of hut is 12 x 14 feet and there is electricity connection to the hut and its service Number is 384 (Electricity Consumption Bill enclosed). The distance between the hut and the compound wall on West is 54 feet and on North 56 feet. The distance between hut and Women Hostel Building on the East is 46 feet.

4) Sri G. Venkata Subbanna has been running a Tea Stall in a hut situated on Kurnool – Nandyal road outside the compound wall of the

P.G. Centre. Sri G. Venkata Subbanna has got electricity supply to the Tea Stall connected from his hut through electric wire.

I humbly submit that the land of the petitioner is within the compound wall of the P.G. Centre and the land of the petitioner has not been utilized for any construction of the P.G. Centre or for any other building."

The report submitted by Sri V. Krishna Murthy was read out in the Court. Thereafter, learned counsel for the parties made further arguments and the order was reserved.

Sri Singam Venkata Subba Rao argued that the acquisition of the petitioner's land should be declared as nullity because even though there was no urgency to construct P.G. Centre of the University, the State Government arbitrarily invoked Section 17 (4) of the Act and dispensed with the enquiry contemplated by Section 5-A, which resulted in depriving the petitioner of the right to represent his cause against the proposed acquisition. He further argued that the impugned notifications are liable to be quashed because similar acquisition has been nullified by the learned Single Judge vide order dated 4-7-2000 passed in Writ Petition No.16805 of 1997 and batch, and that order has been confirmed by the Division Bench while dismissing Writ Appeal No.1144 of 2001 and batch. Learned counsel then argued that even if the Court comes to the conclusion that there has been no violation of Section 11-A, the impugned acquisition should be quashed because the University has not utilized the land for constructing Post-Graduate Centre and possession still continues with the petitioner.

Learned Government Pleader argued that the writ petition should be dismissed because the petitioner has not approached the Court with clean hands and there is an unexplained delay of three years between the publication of declaration under Section 6 and filing of the writ petition. He emphasized that the petitioner has deliberately suppressed the facts relating to award proceedings, and also the fact that possession of the land in question had been taken over as early as in September 1994 and, therefore, he is not entitled to be heard on the merits of the case. He then argued that order dated 4-7-2000 passed by the Single Bench in Writ Petition No.18605 of 1997 and batch and order dated 3-6-2002 passed in Writ Appeal No.1144 of 2001 and batch whereby acquisition proceedings in respect of some parcels of land over which the University wanted to construct P.G. Centre

have been quashed by the Court on the ground of non-compliance of Section 11-A should not be made basis for granting relief to the petitioner because the impugned acquisition does not suffer from similar infirmity. He pointed out that award in respect of the petitioner's land had been passed on 20-12-1995 i.e., within two years of the publication of notification under Section 6 of the Act and argued that the same cannot be treated as barred by limitation prescribed under Section 11-A. Sri M. Ramalingeswara Reddy, learned counsel for the University, adopted the argument of the learned Government Pleader and submitted that even though the Post-Graduate Centre has not been constructed so far, the Court may not annul the acquisition proceedings because physical possession of the land had, in fact, been delivered to the University on 21-9-1994 and compound wall has already been constructed.

We have given serious thought to the entire matter. We shall first deal with the question whether the petitioner should be non-suited because he has not come to the Court with clean hands. In paragraph 7 of his affidavit, the petitioner has averred that the proceedings of acquisition are vitiated due to violation of Section 11-A. For the sake of convenient reference, that paragraph is reproduced below:

> "7. I submit that the conduct of the Requisitioning Department represented by the 4th respondent herein and the action of the District Collector in directing the Land Acquisition Office not to pass an award in respect of the aforesaid land is responsible for not passing any award and the respondents having not passed the award and the failing to comply with Section 11-A cannot sustain the entire land acquisition proceedings. As per the express language of Section 11-A, land acquisition proceedings are vitiated as no award is made within two years from the date of the publication of the declaration and the respondents having issued a Section 6 declaration on
> 5-5-1994 and having failed to passing award by
> 4-5-1996, the whole land acquisition proceedings are unsustainable in the eye of law."

In the affidavit filed by Sri J. Subbarayudu, the then Revenue Divisional Officer, Kurnool (paragraphs 3 to 16), it has been categorically averred that the award enquiry was conducted on different dates between 20-6-1994 to
19-12-1994; that the petitioner had appeared before the Land Acquisition Officer, and that the award was passed on
20-12-1995. The relevant extract of the affidavit of Sri J. Subbarayudu is reproduced

below:

> "… The award enquiry has also been conducted on 20-6-94, 26-10-94, 18-10-94, 5-11-94, 28-11-94 and 19-12-94. At the time of award enquiry, the present petitioner one Sri G. Venkata Subbanna has appeared and deposed that the said land was purchased by him in document No.3507 dated 17-7-93 from Sri Devi Prasad Pande S/o.Narayana Pande and requested to pay the land compensation to him only. No other claims and objections have been received. Hence, the land compensation amount of Rs.901/- was awarded in A.No.10/95 dated 20-12-95 and ordered to be paid to Sri G. Venkata Subbanna. On verification of this office records, it is noticed that the petitioner has not been taken the awarded amount. …"

In paragraphs 4 and 6 of his affidavit, Sri T. Srinivasulu Reddy, Registrar of the University, has averred as under:

> "4. It is submitted that in reply to para 4, 5 and 6 of the affidavit, the 1st respondent issued notification under Section 4 (1) of Land Acquisition Act, in A.P. Gazette, dt.5-4-1994 and a draft declaration on 5-5-1994 at the request of the 4th respondent herein by invoking Section 17 (4) of L.A.Act, by dispensing the enquiry under Section 5(A) of the Act. Thereafter, the petitioner had participated in the award proceedings by appearing himself and deposing before the L.A.O., with all relevant documents and claimed a higher compensation of Rs.12,000/- per cent, but he could not produce any documentary evidence in support of his claim. No other claims or objections have also been received. Therefore, the Land Acquisition Officer had passed an award fixing an amount of Rs.901/- as compensation and accordingly the amount has been deposited with L.A.O., and the same was ordered to be paid to the writ petitioner. So far, the writ petitioner had not claimed the amount and the same is lying with the Land Acquisition Officer.
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> …
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> 6. In reply to para 7 of the affidavit, it is submitted that the main grievance and contention of the writ petitioner herein is that the respondents have not passed any award and failed to comply with Section 11(a) and thereby the acquisition proceedings are vitiated as no award has been passed within two years from the date of publication of declaration, is not correct and contrary to the facts and material on record. A notification under Section 4 (a) and a declaration under Section 6 have been passed on 5-4-1994 and 5-5-1994 respectively and accordingly, within two years i.e., on 20-12-1995 an award has been passed in which the writ petitioner had participated in the proceedings. Therefore, the contention of the writ petitioner as stated in para 7 is incorrect and far from truth."

Paragraph XVI of Award No.10 of 1995 dated 20-12-1995 passed by the Land

Acquisition Officer–cum-Revenue Divisional Officer, Kurnool, which records the presence of the petitioner also reads as under:

> "XVI. Survey No.11/3 – 194.27 sq. yards: 0.04 cents:
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> As per the revenue records i.e., 10 (1) and Adangal Sri Kuruva Pedda Pullanna is the pattadar. At the time of award enquiry, one Sri Gunja Venkata Subbanna S/o.Late Kambanna has appeared and deposed that the said land was purchased by him in Document No.3507 dt.17-7-93 from Sri Devi Prasad Pande s/o.Narayana Pande and requested to pay the land compensation to him only. He claimed higher rate compensation @ Rs.12,000/- per cent. But, he could not produce any documentary evidence in support of his claim. No other claims and objections have been received. Hence, the land compensation amount of Rs.901/- is awarded and ordered to be paid to Sri Gunja Venkata Subbanna S/o.late Kambanna, as per the schedule below:

1	2	3	4	5	6	7	8	9
1.	11/3	0.04	600/-	180/-	22/-	70/-	29/-	901/-

"

The petitioner has not filed rejoinder affidavit to controvert the assertion contained in the counter-affidavits that he had appeared before the Land Acquisition Officer and that the award had, in fact, been passed on 20-12-1995. Thus, there is no escape from the conclusion that the petitioner has suppressed material facts. We have no doubt that if the petitioner had not suppressed/mis-stated facts relating to award proceedings, the Bench hearing the case at the admission stage would have, in all probability, declined to entertain the writ petition filed after 3 years of the issuance of notification under Section 4 (1) and declaration under Section 6 of the Act, moreso because the award had been passed on
20-12-1995. However, the fact of the matter is that by suppressing relevant facts, the petitioner not only succeeded in persuading the Court to entertain the writ petition, but also to pass an order of status quo. In our opinion, the petitioner is guilty of highly contumacious conduct and, therefore, he is liable to be non-suited.

In this connection, it is apposite to observe that Satya (truth) and Ahinsa (non-violence) are the two basic values of life, which have been cherished for centuries in this land of Mahavir and Mahatma Gandhi. People from different parts of the world

come here to learn these fundamental principles of life. However, post-independence era and particularly the last two decades have witnessed sharp decline in these two basic values of life. Materialism has over-shadowed the old ethos and quest for personal gain is so immense that people do not have any regard for the 'truth'.

Truth was the hallmark of the justice delivery system which operated in the country till the establishment of the court system under British rule. The people used to tell truth and truth only without being influenced by its consequences. In the present day judicial system the truth is perhaps the biggest casualty. Unscrupulous litigants like the petitioners leave no stone unturned to mislead the quasi-judicial and judicial authorities and the courts for material gains. The entire system has become victim of such persons. In order to meet this challenge, the courts have evolved new rules, strategies and techniques. One such rule is that the court will not grant hearing to a person who does not approach it with clean hands. To put it differently, a person who touches the fountain of justice with the tainted hand or who makes an attempt to pollute the course of justice by making false or misleading statements or by suppressing facts must be shown the door at the threshold.

In **Hari Narain v. Badri Das**, the Supreme Court upheld the objection raised on behalf of the respondents that the appellant was guilty of misstating the facts and revoked the leave by making the following observations:

> "It is of utmost importance that in making material statements and setting forth grounds in applications for special leave made under Art.136 of the Constitution, care must be taken not to make any statements which are inaccurate, untrue or misleading. In dealing with applications for special leave, the Court naturally takes statements of fact and grounds of fact contained in the petitions at their face value and it would be unfair to betray the confidence of the Court by making statements which are untrue and misleading. Thus, if at the hearing of the appeal the Supreme Court is satisfied that the material statements made by the appellant in his application for special leave are inaccurate and misleading, and the respondent is entitled to contend that the appellant may have obtained special leave from the Supreme Court on the strength of what he characterizes as misrepresentations of facts contained in the petition for special leave, the Supreme Court may come to the conclusion that in such a case special leave granted to the appellant ought to be revoked."

In **Welcome Hotel and others v. State of Andhra Pradesh and others etc.,**

the Supreme Court held that a party which has misled the Court in passing an order in its favour is not entitled to be heard on the merits of the case.

In **G. Narayanaswamy Reddy and others v. Governor of Karnataka and another**, the Supreme Court declined relief to the appellant who had concealed the fact that the award was not made by the Land Acquisition Officer within the time specified in Section 11-A of the Land Acquisition Act on account of interim stay order passed in a writ petition. While dismissing the special leave petition, the Court observed:

> "Curiously enough, there is no reference in the Special Leave Petitions to any of the stay orders and we came to know about these orders only when the respondents appeared in response to the notice and filed their counter affidavit. In our view, the said interim orders have a direct bearing on the question raised and the non-disclosure of the same certainly amounts to suppression of material facts. On this ground alone, the Special Leave Petitions are liable to be rejected. It is well settled in law that the relief under Art.136 of the Constitution is discretionary and a petitioner who approaches this Court for such relief must come with frank and full disclosure of facts. If he fails to do so and suppresses material facts, his application is liable to be dismissed. We accordingly dismiss the Special Leave Petitions."

In **S.P.Chengalvaraya Naidu (dead) by L.Rs. v. Jagannath (dead) by L.Rs. and others**, the Supreme Court held that where a preliminary decree was obtained by playing fraud on the Court in-as-much as a vital document was withheld in order to gain advantage on the other side, such party deserves to be thrown out at any stage of the litigation.

In **Nand Lal and others v. State of Jammu and Kashmir and another**, a learned Judge of Jammu and Kashmir High Court held that if a party does not disclose all the facts correctly and candidly, it is not entitled to be heard on the merits of the case. Some of the observations made by the learned Single Judge are reproduced below:

> "Where the petitioners under Art. 226 have not stated the relevant facts petition or in the affidavit in support of their petition, this is by itself sufficient to entail an outright dismissal of the writ petition without going into its merits. And even if the petitioners have a good case on merits, the Court will be entitled to decline to go into the merits and dismiss their petition, because the conduct of the petitioners has been such as to mislead the Court."

In **Harbhajan Kaur v. State of Punjab and others**, a Division Bench of Punjab and Haryana High Court held as under:

> "The writ petitioners have tried to overreach the Court. They did not bring the correct facts to the notice of the Court and obtained an order from us by concealing material facts and without impleading vitally affected party to the writ petition. They have been fighting litigation against the Punjab Wakf Board since 1986 as is passed in Petition No.363 of 1986 (Sham Singh and another v. Punjab Wakf Board). They did not disclose that their applications for transfer of land were dismissed by the Tehsildar (Sales) and, on appeal the orders were affirmed by the Sales Commissioner and that the appeals against the orders of the Sales Commissioner were pending before the Chief Sales Commissioner, that the Punjab Wakf Board had been contesting their claim and in those proceedings it had been held that the Punjab Wakf Board was the owner of the disputed land and that in judicial proceedings Smt.Kuldip Kaur and her husband had made admission that the Punjab Wakf Board was the owner of the disputed land."

Reference also deserves to be made to some of the English decisions on this subject. In **Rex v. Kensington**, Cozens Hardy M.R. made the following observations on the conduct of a party in an ex-parte application in the following words:

> "On an ex-parte application uberrima fides is required, and unless that can be established if there is anything like deception practiced on the Court, the Court ought not to go into the merits of the case, but simply say we will not listen to your application because of what you have done."

Lord Scrutton L.J., said:

> "It has for many years the rule of the Court and one which it is of the greatest importance to maintain, that when any applicant comes to the Court to obtain relief on an ex-parte statement, he should make a full and fair disclosure of all the material facts, facts not law …
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> … The applicant must state fully and fairly the facts and the penalty by which the Court enforces that obligation is that if it finds out that the facts have been fully and fairly stated to it, the Court will set aside any action which it has taken on the faith of the imperfect statement."

In **R v. Churchwardens of All Saints Wigan**, Lord Haterlay observed:

> "Upon a prerogative writ there may arise many matters of discretion which may induce the Judges to withhold the grant of it – matters connected with delay or possibly with the conduct of the parties."

In **Rex v. Garland**, it was held:

> "Where a process is ex debito justitiae, the Court would refuse to exercise its discretion in favour of the applicant where the application is found to be wanting in bona fides."

We are further of the view that order dated 4-7-2000 passed by the learned Single Judge in Writ Petition No.16805 of 1997 and batch and judgment dated 3-6-2001 passed by the Division Bench in Writ Appeal No.1144 of 2001 and batch do not have direct bearing on the issues which arise for determination in this petition. In those cases, the learned Single Judge quashed the acquisition proceedings because the Land Acquisition Officer failed to pass award within two years. The Division Bench approved the view taken by the learned Single Bench by recording the following observations:

> "… The learned Judge placing reliance, according to us quite rightly, on the minutes drafted in the meeting held by the University authorities and the Joint Collector on 16-12-1995 concluded that admittedly no physical possession of the subject land was taken over and since the award, admittedly, was not passed within a period of two years from the date of Section 6 declaration, the land acquisition proceedings are vitiated. The learned Judge has extracted the minutes of the meeting held on
> 16-12-1995. A perusal of the same makes it very clear that even according to the Joint Collector himself, the actual physical possession of the subject land was not taken over and what was taken over by the Mandal Revenue Officer was only symbolic possession. If that is so, no exception can be taken to the conclusion reached by the learned Single Judge and the relief granted to the writ petitioners. …"

The facts borne out from the pleadings of this case shows that award had been passed by the Land Acquisition Officer on 20-12-1995 i.e., within two years of the publication of declaration issued under Section 6 of the Act. In the counter-affidavit

filed on behalf of the respondents, it has been categorically averred that award was passed by the Land Acquisition Collector on 20.12.1995. The petitioner has not filed rejoinder-affidavit to controvert this assertion. It is, thus, evident that the foundational fact on which the other batch of writ petitions were allowed by the learned Single Judge and the writ appeals were dismissed by the Division Bench is non-existent in the present case. Therefore, the orders passed in those cases cannot be relied for quashing the acquisition of the petitioner's land.

There are two more reasons for our disinclination to entertain the petitioner's challenge to the acquisition proceedings. Firstly, he has moved the Court after more than three years of the publication of declaration under Section 6 of the Act and no explanation has been given for this long delay. It is borne out from the record that possession of the acquired land had been taken by the competent authority and handed over to the University as early as on 21-9-1994. This is also supported by the contents of report dated 6-4-2006 submitted by Principal Junior Civil Judge, Kurnool wherein a reference has been made to the boundary wall constructed by the University. The report does make a mention that the petitioner's hut is existing on the land and he is running tea stall on the boundary wall, but that does not detract from the fact that the University has already constructed boundary wall. It is quite possible that by taking advantage of the fact that no other construction activity was undertaken by the University, the petitioner might have re-entered into the land and put up the hut and started tea stall. In our view, the petitioner's presence over the land in question is not sufficient to overlook the delay of more than three years in filing of the writ petition. In this connection, we may usefully refer to the judgment of the Supreme Court in **Municipal Corporation of Greater Bombay v. I.D.I. Co. Pvt. Ltd.**. In that case, the proceedings initiated under the Maharashtra Regional and Town Planning Act, 1966 were questioned. The Bombay High Court overlooked the delay of four years in filing of the writ petition and quashed the acquisition proceedings. While reversing the order of the High Court, the Supreme Court laid down the following proposition:

> "It is thus well-settled law that when there is inordinate delay in filing the writ petition and when all steps taken in the acquisition proceedings have become final, the Court should be loath to quash the notifications. The High Court has, no doubt, discretionary powers under Article 226 of the Constitution to quash the notification under Section 4(1) and declaration under Section 6. But it should be exercised taking all relevant factors into pragmatic consideration. When the award was passed and possession was

taken, the Court should not have exercised its power to quash the award which is a material factor to be taken into consideration before exercising the power under Article 226. The fact that no third party rights were created in the case is hardly a ground for interference."

Secondly, it is well settled that a writ petition cannot be entertained questioning the acquisition proceedings after the award has been made – **C. Padma v. Dy. Secy. to the Govt. of Tamil Nadu**; **Municipal Corporation of Greater Bombay v. I.D.I. Co. Pvt. Ltd.** (supra) and **Municipal Council, Ahmed Nagar v. Shah Hyder Baig**. In the case before us, the award had been passed more than one year and three months prior to the filing of the writ petition. Therefore, by applying the ratio of the judgments of the Supreme Court, we decline to entertain the petitioner's challenge to the acquisition of his land.

Before concluding, we may mention that even though the learned counsel for the petitioner has argued that the land of his client could not have been acquired by invoking the urgency clause contained in Section 17 (4), we have not thought it proper to deal with the same because no factual foundation has been laid for this plea.

In the result, the writ petition is dismissed.

G.S. SINGHVI, CJ

G. BHAVANI PRASAD, J

April 17, 2006

svs/vtv/svs